



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 70-7003 and 70-7004; NRC-2010-0355]

Approval of Direct Transfer of Licenses and Issuance of License Amendment to Effectuate Such Transfers for American Centrifuge Operating, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of approval of direct transfer of control and issuance of license amendments to effectuate such transfers.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing a notice of consent to the direct transfer of licenses and issuance of License Amendment 7 to Materials License No. SNM-7003 for the American Centrifuge Lead Cascade Facility (Lead Cascade), and Amendment 3 to Materials License No. SNM-2011 for the American Centrifuge Plant (ACP). This action authorized the direct transfer of these licenses from USEC Inc. (USEC) to American Centrifuge Operating, LLC (ACO).

FOR FURTHER INFORMATION CONTACT: Osiris Siurano-Perez, Project Manager, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301-492-3117; e-mail: Osiris.Siurano-Perez@nrc.gov.

SUPPLEMENTARY INFORMATION:

Pursuant to section 2.106(1) of Title 10 *Code of Federal Regulations* (10 CFR), the NRC is providing a notice of consent to the direct transfer of licenses and issuance of License

Amendment 7 to Materials License No. SNM-7003 for Lead Cascade, and Amendment 3 to Materials License No. SNM-2011 for ACP. This action authorized the direct transfer of these licenses from USEC to ACO. The NRC's receipt of the request to take this licensing action was previously noticed in the *Federal Register* on November 17, 2010 (75 FR 70300), with a notice of an opportunity to request a hearing. No requests for a hearing were received. However, by letter dated December 5, 2010, the Ohio Sierra Club submitted a request for a public discussion of USEC's application. In response, on January 4, 2011, the NRC staff held a Category 2 public meeting in Piketon, Ohio, to discuss the NRC's process for reviewing USEC's request to transfer their material licenses for the Lead Cascade and the ACP from USEC to ACO. No decisions were made at this meeting.

By Order dated February 10, 2011, the NRC approved the proposed direct transfer subject to the following conditions:

- 1) USEC will obtain NRC approval on the revised financial assurance instruments for decommissioning of the Lead Cascade facility;
- 2) ACO, as stated in the request, will abide by all commitments and representations previously made by USEC with respect to the licenses; and
- 3) USEC will provide to the NRC, a copy of the executed facilities subleasing agreement(s) naming ACO as the tenant and clarifying U. S. Department of Energy (DOE) indemnification, before the transfers are completed.

The Order also stated that, if the proposed direct transfer of licenses was not completed within 180 days from the date of the issuance of the Order, the Order shall become null and void; however, on written application and for good cause shown, such date may be extended by order. The order was accompanied by a Safety Evaluation Report (SER) documenting the basis for the NRC staff's approval.

By letter dated July 22, 2011, as supplemented by electronic communication dated August 1, 2011, USEC submitted an "Extension Request for Implementation of Order Relating to Consent to Transfer Materials Licenses," from August 9, 2011, to February 9, 2012. The extension was requested to allow USEC additional time to fully implement the conditions of Order EA-11-013. The NRC evaluated the information provided and concluded that USEC's submittal showed good cause for extending the effectiveness of the NRC's Order. The NRC staff also concluded that the basis for originally approving the transfers of USEC's licenses remained valid and fully supported the NRC staff's previous findings and, as such, the NRC issued Order EA-11-180 extending the implementation date of Order EA-11-013 to February 9, 2012. The Order was accompanied by an SER documenting the basis for the NRC staff's approval.

By letter dated January 6, 2012, USEC submitted a second "Extension Request for Implementation of Orders Relating to Consent to Transfer Materials Licenses," from February 9, 2012, to May 18, 2012. By letter dated January 27, 2012, USEC provided supplemental information requesting a change for the implementation of the Order from May 18, 2012, to February 8, 2013. In its submittals, USEC stated that, although it has been working diligently with DOE to achieve conditional commitment (the next step of the loan guarantee process), this process had not been concluded such that implementation of the Order conditions would be met by the due date (i.e., August 9, 2011). USEC also stated that it appeared that the date for completion of activities associated with the sub-lease will extend beyond May 18, 2012, and it will not be able to fully satisfy the Order Conditions by February 9, 2012, as required by Order EA-11-180. The NRC evaluated the information provided and concluded that USEC's submittal showed good cause for extending the effectiveness of Order EA-11-013. The NRC also determined that the basis for originally approving the transfers of USEC's licenses for the Lead Cascade and the ACP from USEC to ACO remained valid. As a result, the NRC issued Order EA-12-027 extending the implementation date of Orders EA-11-013 and EA-11-180 to February

8, 2013. The Order also stated that, if the proposed direct transfer of licenses is not completed by February 8, 2013, this Order and the February 10, 2011, Order shall become null and void. However, upon written application and for good cause shown, the February 8, 2013, date may be extended by further Order. The order was accompanied by an SER documenting the basis for the NRC staff's approval.

In accordance with Order EA-11-013, by letter dated February 7, 2013 (ACO 13-0011), USEC informed the NRC of the completion of the Order requirements. The transfer took place on February 8, 2013, on which date the License Amendments were issued. These actions comply with the standards and requirements of the Atomic Energy Act of 1954, as amended, and NRC's rules and regulations as set forth in 10 CFR Chapter 1.

Further Information

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," the details with respect to this action, including the SER and accompanying documentation, and license amendment request, are available electronically at the NRC's Library at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

1	NRC Order EA-11-013, dated February 10, 2011	ML103630745
2	Safety Evaluation Report on Request for Written Consent for the Direct Transfer of Licenses	ML103630748
3	Summary of Public Meeting With Ohio Sierra Club	ML110280305

4	NRC Order EA-11-180, dated August 8, 2011	ML112140086
5	Safety Evaluation Report on Request to Extend the Date by Which the Direct Transfer of Licenses is to be Completed	ML112140088
6	NRC Order EA-12-027, dated February 8, 2012	ML12027A033
7	Safety Evaluation Report on Second Request to Extend the Date by Which the Direct Transfer of Licenses is to be Completed	ML12027A034
8	Amendment 7 to SNM-7003, dated February 8, 2013	ML13038A708
9	Amendment 3 to SNM-2011, dated February 8, 2013	ML13038A709

Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or via email to pdr@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 27th day of February, 2013.

For the Nuclear Regulatory Commission.

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